

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Gang Liu

Serial No.: 09/827,764

Filed: April 6, 2001

Atty. Dkt. No: 0118-00101

Title: A Laser Driver For A Laser Sensing System

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APR 30 2003

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Hon. Asst. Commissioner of Patents

Washington, D.C. 20231

**RESPONSE TO ADVISORY OFFICE ACTION AND REQUEST FOR
RECONSIDERATION**

The Examiner did not enter Applicant's amendment dated March 31, 2003. Applicant wishes to place the instant application in condition for allowance, and believes that entry of the subject amendment would accomplish this goal. Withdrawal of the finality of the January 30, 2003 Office Action and entry and consideration of the March 31, 2003 amendment would obviate rejections based on the cited art, and therefore place the application in condition for allowance. Accordingly, Applicant respectfully requests reconsideration of the finality of the January 30, 2003 Office Action, and the Examiner's refusal to enter the March 31, 2003 amendment.

The Examiner issued a FINAL REJECTION on January 30, 2003, in which never-before cited art was used to reject claims 1, 8-11, 12 and 14. The Examiner stated that the finality of the rejection was proper because Applicant's amendment filed on October 31, 2002 necessitated the rejections. In the October 31, 2002 amendment, Applicant amended claims 1, 2, 12, 13 and 14, but Applicant did not amend claims 8-11 (proposed amendments are set forth in the un-entered amendment of March 31, 2003). Applicant asserted that the finality of the Rejection on January 30, 2003 was improper, and requested reconsideration along with a proposed amendment on March 31, 2003. The Examiner did not enter the proposed amendment, and in response stated: "Applicant's [October 2002] arguments provided a different insight into what the Applicant intended as the claimed invention." The propriety of the finality of a rejection,

however, depends on amendments of the claims, not Applicant's "insight" into the invention. The proper standard is set forth in MPEP §706.07(a):

[A] second or any subsequent actions on the merits shall be final, except where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims nor based on information submitted in an information disclosure statement...(emphasis added).

Applicant's "insight" is relevant to the invention embodied in the present application, however, it does not mandate a final rejection, particularly where some of the claims, 8-11, where never amended. The Examiner's position appears to be that amendment of some of the claims (1, 2, 12, 13 and 14) "necessitates" rejection of other claims (8-11), however, he has not explained which, if any, claim amendments required rejection of claims 8-11.

Even where Applicant actually amended the claims (1, 2, 12, 13 and 14), the Examiner has not explained why the amendments necessitated the rejections. For example, how does limiting the MOSFET of claim 14 to a "P-channel" MOSFET (where the subject matter was described in the specification and distinguishes over the cited art) *necessitate* the rejection? Applicant asserts that it does not.

The concerns set forth by the Examiner, namely, the asserted change in what Applicant considered as the claimed invention, would be properly set forth in a non-final office action on the merits. Applicant should have the opportunity (by entering the proposed amendment and supporting discussion) to explain why the NEWLY cited art does not disclose or suggest the claimed invention. The Final Rejection relied on new art, and the Examiner made new rejections. Moreover, because Applicant did not amend all the claims rejected under the new art, reconsideration of the finality of the January 30, 2003 Office Action, as well as the Examiner's refusal to enter the amendment of March 31, 2003, is respectfully requested.

Applicant believes the matters set forth above could be readily resolved in a teleconference, and the Examiner is accordingly invited to contact the undersigned at (248) 364-2100.

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Respectfully submitted,


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